COMMONWEALTH OF MASSACHUSETTS

DEPARTMENT OF TELECOMMUNICATIONS AND ENERGY

Inquiry into Metering, Billing and Information Services,)

and the Exclusivity of Distribution Company Franchises) Docket D.T.E. 00-41

Pursuant to Section 312 of the Electric Utility Restructuring Act)

REPLY COMMENTS BY

MASSACHUSETTS ELECTRIC COMPANY

AND NANTUCKET ELECTRIC COMPANY

INTRODUCTION

These comments by Massachusetts Electric Company and Nantucket Electric Company (together, "Mass. Electric") respond to the initial comments of the other parties in this proceeding. In those comments, the distribution companies, their unions, the Low Income Affordability Network, and the gas distribution companies generally oppose the unbundling of and competitive provision of metering, billing, and information services, and the suppliers of electricity, large customers, the Department of Energy Resources, and Attorney General generally favor the competitive supply of these services. However, a careful review of the comments suggests that there is less to the dispute than meets the eye. A fair amount of agreement exists among the parties, if we focus on the improvements that should be made or options that should be added to basic metering, billing, and information services to make the market work more effectively, and serve customers better.

With regard to metering, the agreement is nearly complete. All parties believe that customers, particularly large customers, should have the option to receive hourly, real time information about their electricity usage so that they can manage their loads, reducing the wholesale clearing price for all retail electricity customers in Massachusetts and New England. Moreover, the parties agree that these supplemental metering services should be optional, priced separately and competitively, and supplied by either the market or the distribution company. Finally, there is general agreement that the implementation of the equipment that facilitates price responsiveness by customers will create significant savings in wholesale power costs.

There is less agreement with regard to billing. The suppliers would like to have the right to send a consolidated bill, including distribution charges, to retail customers. The implementation of this proposal would require a change to the statute, and the utilities and the Low Income Affordability Network do not believe that consolidated billing by suppliers will produce savings or provide adequate protection to customers. However, even in billing, there is some measure of agreement. Many of the competitive suppliers recognize the benefits from distribution company control of the data and metering, and thus focus their issue on the sending of the bill, after receiving data from the distribution company in a rate-ready or bill-ready format. This approach allows the distribution company to maintain the data on its system and to quickly re-establish its own billing service in the event of a supplier default. The approach also continues the efficiencies and synergies associated with the distribution company's continued access to and control of usage data for power supply allocations and for use in other regulated functions. Mass. Electric has agreed on a schedule for the application of customer payments to outstanding arrearage.

Finally, there is broad support for, if not agreement upon, the proposition that the restructuring of "basic" metering, billing, and information services in a way that leaves the distribution company with the residual obligation to provide default services will add significant start-up and administrative costs to the distribution company, and produce only limited, marginal savings. Meter manufacturers and electricity suppliers both recognize that the continued uncertainty and debate about the provision of "basic" metering, billing, and information services is shortening the planning horizons of distribution companies and impeding the efficient installation of new facilities for metering, billing and information services.

While we strongly support a final determination by the Department in this docket that removes this uncertainty, we believe that, even if the Department saw some value in introducing major elements of metering, billing and information services to further competition, now may not be the best time to bring yet another significant, structural change to electric utility regulation. Unless and until the Department sees demonstrated value in some other jurisdiction, such additional change may not be wise, particularly during both the continuing evolution of the competitive New England electricity market and the current unprecedented price spikes in the oil and natural gas markets.

With regard to distribution service, there is also broad agreement among most parties that the basic economics and technical requirements of the distribution system supports its continued supply by a single, utility supplier. Only attorneys representing real estate developers expressed a different view. As we explain below, the piecemeal development of the distribution system that they suggest leads to inefficient expansion of the distribution system and poor service for customers.

I. METERING, BILLING, AND INFORMATION SERVICES

In our Initial Comments, Mass. Electric explained that the continued supply of "basic" metering, billing, and information services remains the most reasonable way to meet the objectives of (1) providing these services to all customers efficiently and effectively, (2) facilitating the development of the power supply market, (3) maintaining customer protections, (4) fairly allocating wholesale power supply costs, and (5) maintaining the distribution company's financial integrity. We thus recommended that distribution companies continue to have both the exclusive right and obligation to provide these basic services.

We also recognized that these basic services may not respond to the needs of suppliers to design products and respond to the new volatility in the wholesale market. We, thus, suggested that in addition to basic services, distribution companies should be prepared to offer and facilitate the supply of "supplemental services" that could be used by marketers to design products and improve service to retail customers. These supplemental services were generally services that were not required to meet the distribution companies regulated obligations to customers, but were necessary to implement product offerings by retail electricity marketers. Thus, the supplemental services should be optional to the customer and priced separately from "basic services." The supplemental services could be provided either by the distribution company or the market.

A. Supplemental Services

In their comments, the Suppliers suggested that the competitive supply of metering, billing, and information services were necessary to produce two concrete improvements in service to customers. First, the Suppliers suggested that the existing system of metering, billing, and information services was not providing the sophisticated metering that was necessary for customers to manage their demands and usage in real time. Second, the Suppliers suggested that Suppliers as well as distribution companies should be able to issue consolidated bills. Each of these issues is discussed in turn.

Sophisticated Metering and Communications

In its comments, Sithe discusses the economic benefits of sophisticated metering and communication systems at length (pp. 3-12), and provides a compelling economic rationale for developing a metering system that allows and encourages larger customers to respond directly to the prices and incentives in the wholesale market. Sithe also argues convincingly that even if only a portion of the retail load in New England responds to real time price signals, all customers in the electricity market will realize significant savings through lower market prices during peak periods. Finally, Sithe makes the point that enhanced demand side responsiveness produced by real time communication systems is directly responsive to FERC's suggestions in the July 26 Order on the multi-settlement system for New England. The multi-settlement system, which is planned to be in place in February 2001, will improve incentives for demand side response at times of high energy prices and shortages of capacity. Sophisticated real time communication systems will be necessary for these incentives to be flowed through to participating customers when the new program becomes effective. Several other commenters also made similar points. See Competitive Retail Providers, pp. 9-12; Utility.com, pp. 3-7; Schlumberger, pp.2-6; Joint Intervenor Comments, pp.8-9.

Mass. Electric agrees with these comments and believes that distribution companies must facilitate the installation of the sophisticated metering and communications equipment that is necessary to allow customers and suppliers to manage demands in real time. Mass. Electric believes that its current interval meters have a pulse interface which can be installed enabling the distribution company, customer, and supplier access to the meter at any time. As all of Mass. Electric's G-3 customers must have a sophisticated meter for time-of-use billing, customers could grant access to the meters to their suppliers. Mass. Electric's July 5 settlement with the Associated Industries of Massachusetts, DOER, and the Energy Consortium, pending before the Department, represents a further significant step toward making these supplemental services available to all of its customers. The settlement also allows Mass. Electric to provide optional services under three new tariffs. Under Tariff M.D.T.E. 1033, Mass. Electric will install an interval data recorder for any customer upon request, and will either provide complete service necessary for the customer's real time access to its load (Option 1), or a modem that the customer or supplier may use to provide access to the data (Option 2). Tariff M.D.T.E. 1034 provides customers with access to interval data in excess of one request per year, with the option of having regular or periodic reports on their usage, and under Tariff M.D.T.E. 1035, Mass. Electric will do additional analysis or provide additional reports for the customer upon request. Data can also be accessed over the Internet.

Under the settlement, each of the services is separately priced; all are voluntary. The customer and its supplier are able to install their own modem, retrieve their own data, and generate their own reports, or to purchase these services from Mass. Electric at posted prices. Thus, a commercial customer or its supplier can have access to real time data provided by Mass. Electric for $12.29 per month or a $270.49 one-time payment. Alternatively, the commercial customer or supplier can install its own communication system and reduce Mass. Electric's charge to $6.00 per month or a $132.06 one-time payment. Similar options are also available for residential customers.

This approach allows the customer or supplier to install equipment that is consistent with the other energy management systems at the customer's location. Equally important, the settlement allows the supplier to design a menu of specific product offerings for both residential and commercial customers. The supplier can sell electricity at a flat price using "basic" metering, billing, and information services provided by Mass. Electric at uniform prices charged to all customers. It can also design a second alternative involving real-time prices using the equipment installed by Mass. Electric or the supplier, and recognizing the additional metering costs in the pricing to customers. Finally, the supplier can install a complete energy management system at the customer's location and automatically control usage based on real time wholesale electricity prices or payments for demand reductions. The design of this option would be based on an analysis of the likely savings in electricity costs and the additional costs of the metering and control equipment.

Approval and implementation of the settlement, thus, will go a long way toward meeting the needs of the suppliers for more sophisticated metering equipment. It also allows much installation work to be completed in advance of the demand-side reforms proposed for New England by the February 2001 implementation date.

Consolidated Supplier Billing

In addition to sophisticated metering, some suppliers suggested that they would be able to improve service to their customers if they were allowed to send consolidated bills that included both the supplier's charges and the distribution company's delivery charges. See Competitive Retail Suppliers, pp. 7-9; Utility.com, p. 2. Unlike the broad agreement on metering, consolidated billing by suppliers was opposed by the distribution companies, unions, and the Low Income Affordability Network.

The consumer protection issues associated with consolidated billing were noted on page 21, note 7 of Mass. Electric's initial comments. The major issues stem from the indirect contact between the distribution company and its customers. The customers are responsible for paying the distribution company's charges, but the supplier acts as their agent. The most significant problems occur when the supplier or agent defaults and fails to pay the distribution charges, even though the retail customer has paid the supplier and is fully current on its bill. In that event, the distribution company would treat the default in much the same way that it now treats a master metered apartment, notify the supplier's customers of the default, and seek payment directly from the retail customer. Consolidated billing by the supplier can also complicate the administration and enforcement of the Department's regulations regarding termination of customers who experience health or emergency problems, or during the winter moratorium period.

The approach also limits the distribution company's ability to communicate with its customers regarding an array of matters directly related to the distribution company's ongoing regulated business. For example, consolidated supplier billing could limit the distribution company's ability to communicate with its customers to resolve service issues, correct billing errors, change accounts, start or stop service, settle bills, or provide notices of rate changes, safety information or conservation programs. Even if a distribution company no longer sells electricity to the customer it still has a substantial amount of business with the customer and a significant need for communication. The current system allows that communication to continue, and maintains the current responsibilities for administering consumer protections, while providing the suppliers with an opportunity to use the distribution company's billing system at no cost, or to institute its own communication program with the customer.

Finally, the current approach facilitates the market by making it clear that the provision of distribution service does not depend on the electricity supplier chosen by the customer. Regardless of the supplier, the customer will still be served by the same distribution company. Reliability of supply will not be affected. This assurance makes the market more liquid, and facilitates customer switching. Also, the clear and unbundled distribution bill assures the customer that it is paying the correct amount for distribution charges and getting a reasonable, Department-approved, non-discriminatory rate for distribution service. As such, the current system prevents customer confusion, and limits unjustified claims that different suppliers have different delivery prices or service.

For all these reasons and those set forth in our initial comments, Mass. Electric does not believe that the Utility Restructuring Act needs to be changed to require consolidated billing by suppliers. Rather, the present approach that gives suppliers the right to bill their services separately or to consolidate them with the distribution company continues to facilitate the market and serve the public interest.

B. Basic Metering, Billing, and Information Services

In their comments, the Competitive Retail Providers suggested that the Department adopt an alternative approach to basic metering, billing, and information services under which distribution companies retain the obligation to provide these services, but do not have the exclusive right for their supply. See Competitive Retail Providers, pp. 3-6. As we explained in our initial comments (pp. 6-8), this approach, which is similar to the transitional approach to competitive metering, billing, and information services adopted in California and other states, is the least efficient method for addressing the issue. Simply stated, the approach requires the distribution company to maintain its infrastructure in place but limits the economic benefits associated with the economies of scale and scope that are present under the regulated approach. In addition, the approach creates significant transaction costs associated with the modification of the distribution company's information systems, and administering the system on a going forward basis. In its Initial Comments (pages 18-19 of the volume), Mass. Electric estimated that these costs would approach $12 million. A schedule detailing these costs is attached to these comments as Attachment A. Given the relatively low demand for the competitive services, even in those states where it has been offered, and the other policy issues associated with the competitive supply of these services discussed at length in our initial comments, along with data which suggests that customers prefer to have metering and billing services performed by the distribution company, the additional costs are not warranted and should not be imposed.

C. Implementation Issues

In their comments, the Competitive Retail Providers suggest that the Department investigate the applicable findings of the Coalition for Uniform Business Rules and Uniform Business Practices. See Competitive Retail Providers, p.16. Mass. Electric recommends that any changes to electronic business transactions be made within the context of the Electronic Business Transaction (EBT) Working Group. The Massachusetts EBT Working Group, comprised of a large number of distribution companies, competitive suppliers, and representatives of various regulatory bodies, has developed uniform transactions and standards for the implementation of retail choice. These transactions and standards have been used in Massachusetts since the inception of retail choice, and the EBT Working Group continues to meet on a monthly basis to address issues and suggested enhancements as they arise. Any party can review suggested changes to existing practices, and if there is consensus for a potential change, the EBT Working Group submits the proposal to the Department for approval. If the Uniform Business Practices rules were to be adopted in Massachusetts without regard to the EBT Working Group transactions and standards, all parties would incur significant costs to support the changes. Such costs would include computer system changes, customer notifications, and training. In turn, this would cause customer confusion and could further discourage customers from choosing a competitive supplier.

The Competitive Retail Providers also recommend that the Department require the distribution companies to provide a "bill ready" to aid suppliers sending a consolidated bill. See Competitive Retail Providers, p. 15. This issue, too, belongs under the province of the EBT Working Group.

II. THE DISTRIBUTION COMPANY'S SERVICE TERRITORY

The final issue addressed in the comments by the parties was the continued exclusivity of the distribution company's service areas. Only Goulston & Storrs suggested that the Utility Restructuring Act should be changed to allow others to build and operate distribution systems within the service territories of distribution companies without the distribution company's consent. Specifically, Goulston & Storrs suggested that developers should be allowed to build and operate distribution systems on property that had not been developed prior to July 1, 1997. The suggestion will neither lead to improved service to the customers within the development nor facilitate the efficient development of the distribution system. With regard to the customers in the development, the Goulston & Storrs proposal fails to address the obligations of the developer for the continued maintenance of the reliability and safety of the network.. The distribution company has the ongoing responsibility to maintain the network, respond to outages and repair or replace the system after storms or failures. The continuing obligations of the developers under the Goulston & Storrs proposal is not clear. The developer may not be around after the project is completed or when the system needs repair and replacement. Under these circumstances, the customers in the development will either receive substandard service or the facilities will default to the local utility, after being designed, built, and operated in a manner that is not in compliance with the utility's standards. The result is neither efficient nor fair.

The Goulston & Storrs proposal also presents significant problems with regard to the planning and operation of the network. As explained in our initial comments (pages 35-37), the exclusivity of the franchise provides the certainty of rights and obligations that is necessary to plan and build the network efficiently and reliably. The piecemeal development of the system will impede that development. The operation of the system will also be made more difficult. For example, the development will be connected to the distribution network at some point on the system. Thus, it will no longer be clear which party is responsible for a problem in service. Finally, the Goulston & Storrs proposal undermines the financial integrity of the distribution company. By leaving the distribution company with the obligation to provide service at posted prices, the proposal promotes gaming and cream skimming by developers, who will build and operate the project when costs are low, but rely on the distribution company for the higher cost projects. Just as in the metering, billing, and information services, the rights and obligations of the parties must match. If a service to new developments is competitive, it must be competitive for all parties. However, as we explained in our initial comments, distribution service remains a natural monopoly. Thus, unregulated pricing would lead to discrimination and inefficiency. To avoid this result, the Department should maintain the current system in place. Under that system, the distribution company is required to provide safe, reliable, and efficient service to all the customers in its service territory at reasonable and non-discriminatory prices and terms subject to regulation by the Department. The Department should conclude that electric distribution service remains a natural monopoly that is most efficiently provided by a single supplier, subject to the Department's supervision, and decline to recommend a change to the legislature.

Rather than opening up franchise exclusivity, the Department can take a more direct route to promote high standards of distribution service. As we noted in our initial comments, the institution of performance-based regulation for the distribution companies can assure that monopoly functions will be performed as efficiently as possible for all delivery customers in the service area, particularly if performance is benchmarked against that of all other jurisdictional distribution companies. For example, if the distribution company with the best customer service performance is used as a benchmark for the establishment of financial incentives and penalties, then all distribution companies would strive to have the best customer service. Similarly, the distribution company with the lowest cost of distribution service could be used to establish the target for overall efficiency and cost effectiveness, thus rewarding efficiency and penalizing inefficiency. In sum, performance-based regulation provides an effective framework for improving service and lowering costs.

CONCLUSION

For the reasons stated here and in our initial comments, the Department should determine that metering, billing, and information services should not be subject to unbundling and competition, and that territorial exclusivity for distribution companies should not be terminated or altered in any manner. Based on these findings, the Department should conclude that no further legislation or amendments to the Utility Restructuring Act are necessary at this time, and report that conclusion to the Clerk of the House of Representatives.

Respectfully submitted,

MASSACHUSETTS ELECTRIC COMPANY

NANTUCKET ELECTRIC COMPANY

By their attorneys,

Thomas G. Robinson

Amy G. Rabinowitz

25 Research Drive

Westborough, MA 01582

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